



**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

Re: Appl. No. : 10/799,799 Confirmation No.: 8292  
Applicant : Robert CASSONI  
Filed : March 12, 2004  
TC/A.U. : 3611  
Examiner : YEAGLEY, Daniel S.  
Docket No. : 527.1003DIV  
Customer No. : 23280

Mail Stop: Appeal Brief- Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

September 17, 2007

**APPELLANT'S BRIEF UNDER 37 C.F.R. § 41.37**

Sir:

Appellant submits this brief for the consideration of the Board of Patent Appeals and Interferences (the "Board") in support of his appeal of the Final Rejection dated December 13, 2006 in this application. The statutory fee of \$250.00 for a small entity is paid herewith.

09/19/2007 FHETEKI1 00000058 10799799

01 FC:2402

250.00 OP

## 1. REAL PARTY IN INTEREST

The real party in interest is Cassoni Golf, LLC, a Delaware limited liability corporation.

## 2. RELATED APPEALS AND INTERFERENCES

Appellant, and his legal representatives are not aware of any appeal, interference or judicial proceeding that directly affects, will be directly affected by, or will have a bearing on the Board's decision in this appeal.

## 3. STATUS OF CLAIMS

Claims 14 to 33 are pending. Claims 14 to 33 have been finally rejected as per the Final Office Action dated December 13, 2006. Claim 1 to 13 have been cancelled.

The rejection to claims 14 to 33 is appealed. A copy of appealed claims 14 to 33 is attached hereto as Appendix A.

## 4. STATUS OF AMENDMENTS AFTER FINAL

No amendments after final have been made. A Notice of Appeal was filed on April 13, 2007.

## 5. SUMMARY OF CLAIMED SUBJECT MATTER

Claim 14 recites a mountable device (see, e.g., 250 in Fig 3; see, e.g., paragraph [0062]; see, e.g., page 10, lines 11-15) for a golf car (see, e.g., 300 in Fig 1; see, e.g., [0062]; see, e.g., page 10, lines 8-9) comprising: a frame (see, e.g., 200 in Fig 3; see, e.g., paragraph [0069]; see, e.g., page 11, lines 27-29) for placement in a bag bay (see, e.g., 301 in Fig 2; see, e.g., paragraph [0070]; see, e.g., page 12, lines 3-4) of the golf car, the frame having a frame section (see, e.g., 202 in Fig 4; see, e.g., paragraph [0070]; see, e.g., page 12, lines 1-3) contacting a bottom of the bag bay (see, e.g., 301 in Fig 2; see, e.g., paragraph [0070]; see, e.g., page 12, lines 1-3); at least one attachment device (see, e.g., 201 and 204 in Fig 3; see, e.g., paragraph [0067]; see, e.g., page 11, lines 18-21) for connecting the frame to the golf car (see, e.g. [0067]; see, e.g., page 10, lines 11-15); a first hitch connected to the frame (see, e.g., 10 in Fig 4; see, e.g., paragraph [0067]; see,

e.g., page 11, lines 1-3), the first hitch at least partially extending downwardly from the frame section; and a second hitch connected to the frame (see, e.g., 110 in Fig 4; see, e.g., paragraph [0068]; see, e.g., page 11, lines 1-3), the second hitch at least partially extending downwardly from the frame section.

Claim 26 recites a mountable device (see, e.g., 250 in Fig 3; see, e.g., paragraph [0062]; see, e.g., page 10, lines 11-15) for a golf car (see, e.g., 300 in Fig 1; see, e.g., [0062]; see, e.g., page 10, lines 8-9) comprising: a frame (see, e.g., 200 in Fig 3; see, e.g., paragraph [0069]; see, e.g., page 11, lines 27-29) for placement in a bag bay (see, e.g., 301 in Fig 2; see, e.g., paragraph [0070]; see, e.g., page 12, lines 3-4) of the golf car, a frame section (see, e.g., 202 in Fig 4; see, e.g., paragraph [0070]; see, e.g., page 12, lines 1-3) contacting a bottom of the bag bay (see, e.g., 301 in Fig 2; see, e.g., paragraph [0070]; see, e.g., page 12, lines 1-3); a first hitch connected to the frame (see, e.g., 10 in Fig 4; see, e.g., paragraph [0067]; see, e.g., page 11, lines 1-3), the first hitch at least partially extending downwardly from the frame section so as to have a height similar (see, e.g., 10 in Fig 12; see, e.g., paragraph [0081]; see, e.g. pages 13-14, lines 28-1) to a bumper (see, e.g., 303 in Fig. 7; see, e.g., paragraph [0081]; see, e.g. pages 13-14, lines 28-1) of the golf car; and a second hitch connected to the frame (see, e.g., 110 in Fig 4; see, e.g., paragraph [0068]; see, e.g., page 11, lines 1-3), the second hitch at least partially extending downwardly from the frame section so as to at have a height similar (see, 10 and 110 in Fig 2; see, e.g., paragraph [0081]; see, e.g., pages 13-14, lines 28-1) to the bumper (see, e.g., 303 in Fig. 7; see, e.g., paragraph [0081]; see, e.g. pages 13-14, lines 28-1).

Claim 27 recites a mountable device (see, e.g., 250 in Fig 3; see, e.g., paragraph [0062]; see, e.g., page 10, lines 11-15) for a golf car (see, e.g., 300 in Fig 1; see, e.g., [0062]; see, e.g., page 10, lines 8-9) comprising: a frame (see, e.g., 200 in Fig 3; see, e.g., paragraph [0069]; see, e.g., page 11, lines 27-29) for placement in the bag bay (see, e.g., 301 in Fig 2; see, e.g., paragraph [0070]; see, e.g., page 12, lines 3-4) of the golf car; a first hitch connected to the frame (see, e.g., 10 in Fig 4; see, e.g., paragraph [0067]; see, e.g., page 11, lines 1-3); a second hitch connected to the frame (see, e.g., 110 in Fig 4; see, e.g., paragraph [0068]; see, e.g., page 11, lines 1-3); a first detachable device (see, e.g., 1 in Fig 1; see, e.g., paragraph [0062]; see, e.g.,

page 10, lines 12-13) connected to the first hitch (see, e.g., 10 in Fig 4; see, e.g., paragraph [0067]; see, e.g., page 11, lines 1-3), the first detachable device (see, e.g., 1 in Fig 1; see, e.g., paragraph [0062]; see, e.g., page 10, lines 12-13) having at least one first wheel (see, e.g., 1 in Fig 2; see, e.g., paragraph [0065]; see, e.g. page 11, lines 5-6) for contacting ground and the first hitch supporting an entire weight (see, e.g., paragraph [0085]; see, e.g., page 14, lines 16-19) of the first detachable device when the first wheel is off the ground; and

a second detachable device connected to the second hitch (see, e.g., 110 in Fig 4; see, e.g., paragraph [0068]; see, e.g., page 11, lines 23-25), the second detachable device having at least one second wheel for contacting the ground (see, e.g., paragraph [0085]; see, e.g., page 14, lines 16-19) and the second hitch supporting the second detachable device when the second wheel is off the ground.

#### 6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 14 to 33 were rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent 4,061,257 issued to St. Clair ("St. Clair"). Claims 14 to 33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Application JP 10-155954 issued to Hokaku ("Hokaku") in view of U.S. Patent 4,355,746 issued to Casady ("Casady"). Claims 27 to 33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hokaku in view of U.S. Patent 6,007,031 issued to Tang ("Tang")

#### 7. ARGUMENTS

The present invention relates to a truly novel and non-obvious device for golf cars, permitting new golfing possibilities as described in the present specification. The rejections, it is respectfully submitted, willfully disregard the claim language and are based on hindsight.

#### 35 U.S.C. 102 Rejections

Claims 14 to 33 were rejected under 35 U.S.C. 102(a) as anticipated by St. Clair.

St. Clair shows a golf bag and golf cart carrier attached to the rear of an automobile10 having a rear deck or trunk lid 12. (See col. 3, lines 40 to 43).

Claim 14 recites "A mountable device for a golf car comprising:  
a frame for placement in a bag bay of the golf car, the frame having a frame section contacting a bottom of the bag bay;  
at least one attachment device for connecting the frame to the golf car;  
a first hitch connected to the frame, the first hitch at least partially extending downwardly from the frame section; and  
a second hitch connected to the frame, the second hitch at least partially extending downwardly from the frame section."

St. Clair does not disclose a frame for placement *in a bag bay of the golf car* as claimed, or a frame section *contacting the bottom of the bag bay*. Asserted elements 17 and 21 do not contact any bag bay, but rather contact the rear hood and bumper of an automobile. There is no indication in St. Clair that the carrier can be attached to the bag bay of a golf car, and clearly no disclosure that the asserted frame section is actually contacting the bottom of the bag bay as claimed clearly in claim 14. As such, an anticipation rejection is in clear error. See MPEP 2131. These limitations are not mere asserted uses, but actual limitations.

St. Clair actually teaches away from a device that would contact a bag bay, as it attaches to a bumper of an automobile.

Furthermore, there is no attachment device for connecting to a golf car as claimed.

In addition, the elements 41 and 42 of St. Clair are not hitches. Straps 49 are required to fasten the golf carts 14 to the golf cart carrier.

St. Clair also does not disclose a mountable device for a golf car, but rather for an automobile.

Withdrawal of the rejection to claim 14 and its dependent claims is respectfully requested.

Claim 16: Argued Separately

With further respect to claim 16, claim 16 recites the mountable device as recited in claim 15 further comprising a first driven actuator to move the first hitch and a second driven actuator to move the second hitch.

St. Clair does not show *driven actuators*. The brackets are not actuators.

Claim 18: Argued Separately

Claim 18 recites the mountable device as recited in claim 17 wherein first hitch includes the mount bracket, the mount bracket including a claw. No claw is shown in St. Clair.

Claim 23: Argued Separately

Claim 23 recites the mountable device as recited in claim 14 wherein the first and second hitches at least partially extend downwardly over a bumper of the golf car.

The asserted tubes 41, 42 never extend downwardly of any bumper and certainly not a bumper of a golf car.

Claim 25: Argued Separately

With further respect to claim 25, claim 25 recites the mountable device as recited in claim 14 wherein the attachment device contacts a bag holder frame of the bag bay.

A bag holder frame in a bag bay of a golf car is the standard way to connect golf bags. Automobiles simply do not have a bag holder frame, as one of skill in the art of golf cars would recognize. This limitation is not met by St. Clair.

Claim 26: Argued Separately

With respect to independent claim 26, claim 26 recites a "mountable device for a golf car comprising:

a frame for placement in a bag bay of the golf car, a frame section contacting a bottom of the bag bay;

a first hitch connected to the frame, the first hitch at least partially extending downwardly from the frame section so as to have a height similar to a bumper of the golf car; and

a second hitch connected to the frame, the second hitch at least partially extending downwardly from the frame section so as to at have a height similar to the bumper.”

St. Clair device is not for a golf car and does not have “a frame section contacting a bottom of the bag bay” as claimed. A bag bay of a golf car is a well known area of a golf car, and St. Clair actually teaches away from a device that would contact a bag bay, as it attaches to a bumper of an automobile. St. Clair also does not show two hitches as claimed.

Claim 27: Argued Separately

With respect to independent claim 27, claim 27 recites a “mountable device for a golf car comprising:

a frame for placement in the bag bay of the golf car;

a first hitch connected to the frame;

a second hitch connected to the frame;

a first detachable device connected to the first hitch, the first detachable device having at least one first wheel for contacting ground and the first hitch supporting an entire weight of the first detachable device when the first wheel is off the ground; and

a second detachable device connected to the second hitch, the second detachable device having at least one second wheel for contacting the ground and the second hitch supporting the second detachable device when the second wheel is off the ground.

The St. Clair device is not for a golf car and does not have a frame for placement in a bag bay. St. Clair also does not have two hitches as claimed: the golf club bags in St. Clair are not connected to “hitches” as claimed.

Withdrawal of the 35 U.S.C. 102 rejection is thus respectfully requested.

35 U.S.C. 103 Rejections

Claims 14 to 33 were rejected under 35 U.S.C. 103 as unpatentable over Hokaku in view of Casady '746.

Hokaku uses a single carrier for a plurality of bags. As admitted in the Final Office Action, Hokaku does not show two hitches as claimed in claim 14 and 27. In fact Hokaku teaches away from two hitches, as the carrier 2 carries a plurality of bags. See [0011].

Cassidy shows arms 29, 30 which support golf bags which rest in the bag bay.

Claim 14 recites: "A mountable device for a golf car comprising:

a frame for placement in a bag bay of the golf car, the frame having a frame section contacting a bottom of the bag bay;

at least one attachment device for connecting the frame to the golf car;

a first hitch connected to the frame, the first hitch at least partially extending downwardly from the frame section; and

a second hitch connected to the frame, the second hitch at least partially extending downwardly from the frame section."

Hokaku shows a completely new type of golf car without a bag bay. A bag bay is a well-known structure in a golf car where the golf bags can rest. Hokaku seeks to avoid a bag bay by having a new type of attachment device. Moreover, Hokaku does not have "a frame section contacting a bottom of the bag bay." What is the asserted bottom of the bag bay?

It also is respectfully submitted that it would not have been obvious to have modified Hokaku to have a frame in a bag bay, as Hokaku seeks to avoid bag bays altogether.

It also is respectfully submitted that it would not have been obvious to have modified Hokaku in view of Casady to provide two hitches: Hokaku already provides for a multiple golf bags in a single carrier 2. A fair viewing also shows the devices are completely different structurally. Hokaku functions perfectly fine without any modification and Casady does not address any need or failings of Hokaku: the sole purpose of the combination appears to be improper hindsight.

Withdrawal of the rejection under 35 U.S.C. 103 to claims 14 and 27 and their dependent



claims is respectfully requested.

Claim 15: Argued Separately

Claim 15 recites the mountable device as recited in claim 14 wherein the first and second hitches are movable with respect to the frame.

Providing a second hitch from Casady movable with respect to *the frame* would not have been obvious and the Office Action does not address this limitation with respect to Hokaku in view of Casady.

Claim 16: Argued Separately

Claim 16 recites the mountable device as recited in claim 15 further comprising a first driven actuator to move the first hitch and a second driven actuator to move the second hitch.

Neither Casady nor Hoakau show a second driven actuator, and withdrawal of the rejection is respectfully requested.

Claim 17: Argued Separately

Claim 17 recites the mountable device as recited in claim 14 wherein the first hitch includes one of a mount tube and a mount bracket. The Final Office Action does not address this limitation in detail, nor is it shown in Hokaku or Casady. What is the asserted mount *tube*?

Claim 18: Argued Separately

Claim 18 recites the mountable device as recited in claim 17 wherein first hitch includes the mount bracket, the mount bracket including a claw.

The Final Office Action seems to be asserting that it would have been obvious to also substitute the type of mounting in Hokaku for the mounting type in Casady, but gives no reason for doing so. The only reason seems to be impermissible hindsight, as Hokaku does not seem to want or desire the manual hitching required by Casady, and actually teaches away from it.

Claim 21: Argued Separately

Claim 21 recites the mountable device as recited in claim 19 wherein the detachable golf club carrier is rotatable with respect to the frame when in contact with the first hitch so as to lift the at least one wheel with respect to the ground.

Casady actually seeks to avoid such structure and it is respectfully submitted that one of skill in the art would not have modified Hokaku with Casady to meet this limitation.

Claim 25: Argued Separately

Claim 25 recites the mountable device as recited in claim 14 wherein the attachment device contacts a bag holder frame of the bag bay.

Hokaku does not teach this limitation, nor does Casady. What is the attachment device? It clearly does not contact any bag holder frame of the bag bay.

Claim 26: Argued Separately

Claim 26 recites a "mountable device for a golf car comprising:

a frame for placement in a bag bay of the golf car, a frame section contacting a bottom of the bag bay;

a first hitch connected to the frame, the first hitch at least partially extending downwardly from the frame section so as to have a height similar to a bumper of the golf car; and

a second hitch connected to the frame, the second hitch at least partially extending downwardly from the frame section so as to at have a height similar to the bumper."

Hokaku seeks a completely new type of golf car, and it actually teaches away from "a frame for placement in a bag bay of a golf car, a frame section contacting a bottom of the bag bay" as claimed. It is respectfully submitted it would not have been obvious to provide the car of Hokaku with such a frame.

Moreover, the height of the asserted hitches is not similar to the height of the bumper.

Claim 27: Argued Separately

Claim 27 recites a mountable device for a golf car comprising:

a frame for placement in the bag bay of the golf car;

a first hitch connected to the frame;

a second hitch connected to the frame;

a first detachable device connected to the first hitch, the first detachable device having at least one first wheel for contacting ground and the first hitch supporting an entire weight of the first detachable device when the first wheel is off the ground; and

a second detachable device connected to the second hitch, the second detachable device having at least one second wheel for contacting the ground and the second hitch supporting the second detachable device when the second wheel is off the ground.

Hokaku seeks a completely new type of golf car, and it actually teaches away from “a frame for placement in a bag bay of a golf car, a frame section contacting a bottom of the bag bay” as claimed. It is respectfully submitted it would not have been obvious to provide the car of Hokaku with such a frame.

The golf bag of Cassidy by necessity rests in the golf bag bay, and therefore the combination of Hokaku in view of Casady with not result in the claimed limitations of the first hitch supporting an entire weight of the first detachable device when the first wheel is off the ground.

Claims 27 to 33 over Casady in view of Tang: Argued Separately

Claims 27 to 33 were rejected under 35 U.S.C. 103 as unpatentable over Casady '746 in view of Tang '031.

Cassidy shows arms 29, 30 which support a golf bag which rests in the bag bay. Tang shows golf bag carriers with wheels.

Claim 27 recites “a first detachable device connected to the first hitching device, the first detachable device having at least one first wheel for contacting ground and the first hitching device *supporting an entire weight of the first detachable device when the first wheel is off the*

*ground."*

The golf bag of Cassidy by necessity rests in the golf bag bay and even if combinable with Tang (which is seems it would not be), the bottom of the Tang device clearly would rest partially on the golf bag bay bottom. Neither Cassidy not Tang show any "hitching device supporting an entire weight" of the asserted detachable device, since the weight bearing in Cassidy is split between the golf bag bay and the arms, (and it appears most of the weight rests on the golf bag bay and is not carried by the arms).

Withdrawal of the rejection under 35 U.S.C. 103 to claim 27 and its dependent claims is respectfully requested.

#### CONCLUSION

Withdrawal of all of the outstanding rejections is respectfully requested.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By: 

William C. Gehris

Reg. No. 38,156

DAVIDSON, DAVIDSON & KAPPEL, LLC  
485 Seventh Avenue, 14<sup>th</sup> Floor  
New York, NY 10018  
Tel: (212) 736-1940  
Fax: (212) 736-2427

**APPENDIX A:**

**PENDING CLAIMS OF U.S.  
APPLICATION SERIAL NO. 10/799,799**

Claim 14 (previously presented): A mountable device for a golf car comprising:  
a frame for placement in a bag bay of the golf car, the frame having a frame section contacting a bottom of the bag bay;  
at least one attachment device for connecting the frame to the golf car;  
a first hitch connected to the frame, the first hitch at least partially extending downwardly from the frame section; and  
a second hitch connected to the frame, the second hitch at least partially extending downwardly from the frame section.

Claim 15 (previously presented): The mountable device as recited in claim 14 wherein the first and second hitches are movable with respect to the frame.

Claim 16 (previously presented): The mountable device as recited in claim 15 further comprising a first driven actuator to move the first hitch and a second driven actuator to move the second hitch.

Claim 17 (previously presented): The mountable device as recited in claim 14 wherein the first hitch includes one of a mount tube and a mount bracket.

Claim 18 (previously presented): The mountable device as recited in claim 17 wherein first hitch includes the mount bracket, the mount bracket including a claw.

Claim 19 (previously presented): The mountable device as recited in claim 14 further comprising a detachable golf club carrier attachable to either one of the first and second hitches,

the detachable golf club carrier having at least one wheel for contacting ground, the first hitch capable of supporting the detachable golf club carrier when the wheel is off the ground.

Claim 20 (previously presented): The mountable device as recited in claim 19 further comprising a second detachable golf club carrier attachable to an other one of the first and second hitches.

Claim 21 (previously presented): The mountable device as recited in claim 19 wherein the detachable golf club carrier is rotatable with respect to the frame when in contact with the first hitch so as to lift the at least one wheel with respect to the ground.

Claim 22 (previously presented): The mountable device as recited in claim 19 wherein the detachable golf club carrier includes a golf bag held by a holding device.

Claim 23 (previously presented): The mountable device as recited in claim 14 wherein the first and second hitches at least partially extend downwardly over a bumper of the golf car.

Claim 24 (previously presented): The mountable device as recited in claim 14 wherein the first and second hitches are located side-by-side at the rear of the golf car.

Claim 25 (previously presented): The mountable device as recited in claim 14 wherein the attachment device contacts a bag holder frame of the bag bay.

Claim 26 (previously presented): A mountable device for a golf car comprising:  
a frame for placement in a bag bay of the golf car, a frame section contacting a bottom of the bag bay;  
a first hitch connected to the frame, the first hitch at least partially extending downwardly from the frame section so as to have a height similar to a bumper of the golf car; and

a second hitch connected to the frame, the second hitch at least partially extending downwardly from the frame section so as to at have a height similar to the bumper.

Claim 27 (previously presented): A mountable device for a golf car comprising:

a frame for placement in the bag bay of the golf car;

a first hitch connected to the frame;

a second hitch connected to the frame;

a first detachable device connected to the first hitch, the first detachable device having at least one first wheel for contacting ground and the first hitch supporting an entire weight of the first detachable device when the first wheel is off the ground; and

a second detachable device connected to the second hitch, the second detachable device having at least one second wheel for contacting the ground and the second hitch supporting the second detachable device when the second wheel is off the ground.

Claim 28 (previously presented): The mountable device as recited in claim 27 wherein the first detachable device is a golf bag carrier.

Claim 29 (previously presented): The mountable device as recited in claim 28 wherein the golf bag carrier includes a golf bag attached by holding means.

Claim 30 (previously presented): The mountable device as recited in claim 27 further comprising at least one attachment device for connecting the frame to the golf car.

Claim 31 (previously presented): The mountable device as recited in claim 27 wherein the first and second hitches are movable with respect to the frame.

Claim 32 (previously presented): The mountable device as recited in claim 27 wherein the first hitch includes one of a mount tube and a mount bracket.

Claim 33 (previously presented):     The mountable device as recited in claim 32 wherein first hitch includes the mount bracket, the mount bracket including a claw.



## **APPENDIX B**

Evidence Appendix under 37 C.F.R. §41.37 (c) (ix):

No evidence pursuant to 37 C.F.R. §§1.130, 1.131 or 1.132 and relied upon in the appeal has been submitted by appellant or entered by the examiner.

## **APPENDIX C**

### Related proceedings appendix under 37 C.F.R. §41.37 (c) (x):

As stated in "2. RELATED APPEALS AND INTERFERENCES" of this appeal brief, appellant, appellant's legal representatives, and assignee are not aware of any appeal or interference that directly affects, will be directly affected by, or will have a bearing on the Board's decision in this appeal.